

ASSIGNMENT 4

Textbook Assignment: "Search and Seizure," and "Military Law of Evidence," chapters 3 and 4, pages 3-1 through 4-8.

-
- | | |
|---|--|
| <p>4-1. What Constitutional amendment protects an individual against unreasonable search and seizure?</p> <ol style="list-style-type: none">1. First2. Fifth3. Sixth4. Fourth | <p>4-7. Which, if any, of the following jurisdictional considerations may be extended to a CO for an off-base search?</p> <ol style="list-style-type: none">1. Place2. Person3. Property4. None of the above |
| <p>4-2. It is strongly recommended that information given to establish probable cause for search should be given under oath.</p> <ol style="list-style-type: none">1. True2. False | <p>4-8. Which, if any, of the following areas may be searched without probable cause?</p> <ol style="list-style-type: none">1. A locker in a BEQ room2. A government-owned car assigned to an individual3. The desk of an individual4. None of the above |
| <p>4-3. Where may guidance on the military law of search and seizure be found?</p> <ol style="list-style-type: none">1. UCMJ2. MCM, Appendix 143. U.S. Constitution4. Military Rules of Evidence | <p>4-9. Under what specific circumstance may a foreign agent search an area considered an extension of the sovereignty of the United States?</p> <ol style="list-style-type: none">1. When in pursuit of a known felon2. Only when assigned by a U.S. State Department representative3. When authorized by international agreement4. When probable cause is presented |
| <p>4-4. A probable cause to search is based on what factor?</p> <ol style="list-style-type: none">1. A preponderance of the evidence2. Believable information3. Actual data4. Genuine basis | <p>4-10. To which of the following persons may a commanding officer-delegate the power to authorize a search?</p> <ol style="list-style-type: none">1. Military judge2. Officer of the day3. Command duty officer4. Chief Master-at-Arms |
| <p>4-5. A senior noncommissioned officer who is an OIC may authorize a search.</p> <ol style="list-style-type: none">1. True2. False | |
| <p>4-6. The jurisdiction to authorize a search includes what two elements?</p> <ol style="list-style-type: none">1. Authority and neutrality2. Person and property3. Place and property4. Person and place | |

- 4-11. A commanding officer taking action on a search authorization feels he cannot remain neutral and detached in his decision. Who may then authorize the search?
1. Legal officer
 2. Executive officer
 3. Command duty officer
 4. Next superior commander
- 4-12. The factual basis requirement for probable cause is met when an individual reaches which of the following conclusions?
1. The property in question is what it is alleged to be
 2. The property in question is located where it is alleged to be
 3. Both 1 and 2 above
 4. The property in question is in fact the means or fruit of a crime
- 4-13. With regard to probable cause determination, an informant's identity must be disclosed to the authorizing officer in order to establish reliability.
1. True
 2. False
- 4-14. Which of the following statements is/are true regarding the written record of search authorization?
1. It is not mandatory
 2. It helps prove the search was legal
 3. It helps the parties involved review the case
 4. All of the above
- 4-15. Of the following types of searches based on probable cause, which one should be conducted when immediate action is necessary to prevent loss of evidence of a crime?
1. Urgent
 2. Exigency
 3. Immediate
 4. Stop and frisk
- 4-16. For a consent search to be valid, in what specific manner must the consent be given?
1. Freely and voluntarily
 2. In the face of authority
 3. Intelligently and freely
 4. Informally and voluntarily
- 4-17. Of the following search situations, which one requires the Navy to inform the individual of his or her right to refuse?
1. Before a stop and frisk search
 2. When under the face of authority
 3. Before every consent search
 4. When a consent urinalysis is requested
- 4-18. A consent to search form executed by a suspected drug offender may be revoked at any time.
1. True
 2. False
- 4-19. The consent to search form must be signed by the person being searched and how many witnesses?
1. One
 2. Two
 3. Three
 4. Four

- 4-20. During a stop and frisk situation, to what extent may a person search another individual?
1. An internal search of all garment pockets
 2. A pat down or frisk of the outer garments
 3. The removal of clothing and shoes
 4. The emptying of pockets and a check under the beltline
- 4-21. A search incident to a lawful apprehension is limited to which of the following places?
1. The individual person
 2. The person's clothing
 3. The places that can be reached by the individual
 4. All of the above
- 4-22. Nonconsensual intrusions into body cavities may be performed by which of the following personnel?
1. Brig personnel only
 2. Police personnel only
 3. A person with appropriate medical qualifications only
 4. All personnel in an exigency basis
- 4-23. Evidence of contraband obtained through a normal physical evaluation may be seized.
1. True
 2. False
- 4-24. A military working dog's reliability may be determined by which of the following methods?
1. The accuracy of the dog's alert in a controlled situation
 2. The dog's record of training
 3. The amount of training conducted between the dog and handler
 4. The previous performance of the handler
- 4-25. What term identifies an examination conducted for the purpose of ensuring security, military fitness, and good order and discipline of an organization?
1. Inventory
 2. Inspection
 3. Gate search
 4. Shakedown search
- 4-26. What method is used to show that an inspection is not a subterfuge for a search?
1. Scheduling inspections in advance
 2. Scheduling inspections on weekends
 3. Conducting random inspections
 4. Conducting unannounced inspections
- 4-27. A military working dog is considered as what type of inspection aid?
1. Natural
 2. Biological
 3. Technological
 4. Human assisted
- 4-28. Which of the following sources provides detailed guidance for the collection, analysis, and use of urine samples?
1. OPNAVINST 5350.4
 2. MILPERSMAN
 3. JAGMAN
 4. SORM
- 4-29. Which of the following statements is true regarding persons suspected of drug abuse?
1. They may be asked to consent to urinalysis testing
 2. They may be asked to sign a urinalysis consent form
 3. An exigency search may be ordered
 4. Each of the above

- 4-30. Before urinalysis testing of an entire unit, approval should be granted by what authority?
1. Commanding officer
 2. Secretary of the Navy
 3. Second-echelon commander
 4. Chief of Naval Operations
- 4-31. Service-directed urinalysis testing falls under the authority of what official?
1. Chief of Naval Operations
 2. Chief of Naval Personnel
 3. Secretary of the Navy
 4. Commanding officer
- 4-32. Surveillance testing is periodic command-directed testing given to what personnel?
1. Those with suspicious behavior
 2. Those with discipline problems
 3. Those who do not participate in a drug rehabilitation program
 4. Those who have completed a drug rehabilitation program
- 4-33. What is the only constant with regard to service-directed urinalysis testing?
1. May refer members to a DOD treatment center
 2. May be used to vacate punishment under Article 15
 3. May be considered the basis for administrative separation
 4. May be used for disciplinary purposes
- 4-34. Some of the major sources for the military law of evidence are found in which of the following documents?
1. Statutes
 2. Constitution
 3. Scholarly writings
 4. All of the above
- 4-35. The military courts derive their existence from what article of the Constitution?
1. Article I
 2. Article II
 3. Article III
 4. Article IV
- 4-36. What article of the UCMJ is considered the key that opens the door to the military law of evidence?
1. 6
 2. 15
 3. 36
 4. 40
- 4-37. Who has prescribed the rules of evidence for military personnel?
1. President of the United States
 2. Chief of Naval Operations
 3. Judge Advocate General
 4. Secretary of the Navy
- 4-38. The military rules of evidence (MRE) are found in what source?
1. JAG Manual
 2. Navy Regulations
 3. U.S. Constitution
 4. Manual for Courts-Martial
- 4-39. Points of law on particular issues are interpreted by what judicial system(s)?
1. Court of Military Review
 2. Court of Military Appeal
 3. Both 1 and 2 above
 4. Federal District Courts
- 4-40. Of the following terms, which one is sometimes used to describe the rules of evidence?
1. Issues
 2. Elements
 3. Technicalities
 4. Interpretations

4-41. The MRE are NOT applied to what judicial proceeding?

1. General court-martial
2. Special court-martial
3. Summary court-martial
4. Captain's mast

4-42. The rules of evidence are made applicable to courts-martial by what MRE?

1. 15
2. 31
3. 101
4. 133

4-43. What is the ultimate issue at a trial by court-martial?

1. Guilt or innocence of the accused
2. Innocence of the accused only
3. Guilt of the accused only
4. Rights of the accused

4-44. What is the broader meaning of the term corpus delicti?

1. Murder victim
2. Element of an offense
3. Body or substance of crime
4. Fundamental facts connected with an illegal act

4-45. In which of the following offenses must intent be proven?

1. Rape
2. Burglary
3. Drunkenness
4. Neglect of duty

4-46. Evidence that the accused was drunk could constitute a defense for the commission of which of the following acts?

1. Rape
2. Arson
3. Murder
4. Larceny

4-47. An accused is required to assume the burden of proof to show innocence to which, if any, of the following offenses?

1. Rape
2. Arson
3. Neglect of duty
4. None of the above

4-48. Evidence is divided into a total of how many basic forms?

1. Five
2. Two
3. Three
4. Four

IN ANSWERING QUESTIONS 4-49 THROUGH 4-54, SELECT THE FORM OF EVIDENCE FROM COLUMN B THAT MATCHES THE DESCRIPTION GIVEN IN COLUMN A. RESPONSES MAY BE USED ONCE, MORE THAN ONCE, OR NOT ALL.

A. DESCRIPTIONS

B. FORMS OF
EVIDENCE

4-49. Sworn testimony received at trial

1. Documentary

2. Real

4-50. A writing that is offered into evidence

3. Demonstrative

4-51. Any physical object offered into evidence

4. Oral

4-52. Photographs and X-Rays

4-53. The "personal view" principle

4-54. A witness makes a gesture to convey information

- 4-55. The courts assume that Department of Defense documents are genuine.
1. True
 2. False
- 4-56. When a document is to be introduced as evidence and only part of it is to be read to the court, what portion of the document must be submitted?
1. The entire document
 2. The cover of the document and that portion to be read only
 3. The section or chapter of the document containing the portion to be read only
 4. The portion to be read only
- 4-57. A knife used to take the life of a victim is what form of evidence?
1. Real
 2. Indirect
 3. Documentary
 4. Demonstrative
- 4-58. Evidence that is partly documentary and partly real is what category of evidence?
1. Oral
 2. Partial
 3. Indirect
 4. Demonstrative
- 4-59. What are the two types of evidence?
1. Direct and indirect
 2. Admissible and indirect
 3. Direct and circumstantial
 4. Circumstantial and admissible
- 4-60. A confession from an accused is what type of evidence?
1. Real
 2. Direct
 3. Demonstrative
 4. Circumstantial
- 4-61. Evidence that tends to establish a fact from which a fact in issue may be inferred is what type of evidence?
1. Real
 2. Direct
 3. Demonstrative
 4. Circumstantial
- 4-62. Direct evidence is superior to circumstantial evidence.
1. True
 2. False
- 4-63. Admissibility of evidence depends on what factor(s)?
1. Relevancy
 2. Competency
 3. Authenticity
 4. All of the above
- 4-64. What is meant by the authenticity of evidence?
1. The identity of the evidence
 2. The admissibility of the evidence
 3. The genuine character of the evidence
 4. The relevancy of the evidence
- 4-65. A trial counsel and defense counsel agree that a certain item sought to be introduced into evidence is what it purports to be. What is this agreement called?
1. A stipulation
 2. An authentication
 3. A mutual gesture
 4. An attestation

- 4-66. What is a definition of relevancy as applied to evidence?
1. The evidence has been accepted by the court as admissible
 2. The information will reasonably tend to prove or disprove any matter in issue
 3. The evidence has been proven to be competent
 4. The identity of the evidence has been authenticated
- 4-67. Evidence that is relevant and not barred by any exclusionary rule is described by what term?
1. Relevant
 2. Competent
 3. Authentic
 4. Stipulation
- 4-68. Competency of evidence is a matter of whether or not the evidence can meet what test(s)?
1. Public policy, reliability, undue prejudice, and relevancy
 2. Public policy, reliability, and undue prejudice only
 3. Public policy and reliability only
 4. Public policy only
- 4-69. What is prima facie evidence?
1. Evidence that will prove or disprove any matter in issue
 2. Evidence that is admissible as fit and appropriate proof in a particular case
 3. Evidence that would be objectionable as irrelevant
 4. Evidence that is good and sufficient, on its face, to meet the issue if no other testimony is offered
- 4-70. How does the prosecution establish a prima facie case?
1. By introducing enough evidence to outweigh the general presumption that the accused is innocent
 2. By providing enough good evidence against the accused to ensure an airtight case
 3. By shifting the burden of proof to the accused
 4. By presenting evidence that is entirely circumstantial
- 4-71. When, if ever, may a prima facie case be overthrown?
1. Upon an appeal of the trial
 2. When the accused introduces sufficient evidence in rebuttal
 3. When the accused objects to the evidence that is presented
 4. Never
- 4-72. What is meant by reasonable doubt?
1. An honest and real doubt caused by insufficient proof
 2. Proof beyond the possibility of mistake
 3. Doubt caused by a fault-finding attitude
 4. Doubt caused by moral attitude
- 4-73. In a case involving drunkenness, which of the following statements would be admissible?
1. The accused was drunk the day before that specified
 2. The accused is known to be a heavy drinker
 3. The accused was in the company of others who were drunk
 4. The accused had been drinking a short time prior to that specified

4-74. Evidence of other offenses or acts of misconduct may be introduced when the evidence tends to accomplish which of the following actions?

1. Identifies a person as the Perpetrator of an offense
2. Proves a plan of the accused
3. Proves guilty knowledge or intent
4. All of the above

4-75. Hearsay testimony is best described as what kind of evidence?

1. Overruled
2. Secondhand
3. Presumptive
4. Prima facie